IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2138/2003

SHYAM LAL JYOTESH Vs. STATE OF RAJASTHAN & ANR.

Date: 13.12.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. N.K. Singhal for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

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The controversy involved in this writ petition is that the charge-sheet was issued to the petitioner on 26.08.2002 and the petitioner retired from service on 31.08.2002 after attaining superannuary age. The charge-sheet was issued on the basis of audit report but no enquiry was initiated pursuant to the charge-sheet. It is also not disputed that the petitioner retired from service after attaining superannuary age.

Learned counsel for the petitioner placed reliance of the judgment rendered by the Hon'ble Supreme Court in the case of ***P.V. Mahadevan Vs. MD, T.N. Housing Board, decided on 08.08.2005 and reported in (2205)6 SCC 636,*** wherein the Hon'ble Supreme Court has held that Departmental enqquiry- Delay in initiation of- Effect- Inordinate delay of 10 years in initiating departmental enquiry against appellant- No

convincing explanation given by respondent employer in respect of- In the circumstances of the case, held, allowing respondent to proceed further with departmental proceedings at this distance of time would be very prejudicial to appellant.

Applying the ratio decided by the Hon'ble Supreme Court in the aforementioned case, in the instant case, the charge-sheet was issued to the petitioner only on 26.08.2002 i.e. 5 days prior to attaining superannuary age and no enquiry has been initiated against the irregularity committed by the petitioner in the year 1992-93 i.e. about 10 years before the charge-sheet served.

In view of this fact, the writ petition stands allowed and the impugned charge-sheet dated 26.08.2002 (Annexure-2) is hereby quashed and set-aside.

(K.S. RATHORE),J.

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